

ORIGINAL



0000081203

32e

GLIEGE LAW OFFICES, PLLC

P.O. Box 1388

Flagstaff, AZ 86002-1388

(928) 226-8333

RECEIVED

JAN 25 11:43

John G. Gliege (#003644)

Stephanie J. Gliege (#022465)

Attorneys for the Complainants

BEFORE THE ARIZONA CORPORATION COMMISSION

RAYMOND R. PUGEL AND JULIE B.

PUGEL, husband and wife as trustees of THE
RAYMOND R. PUGEL and JULIE B. PUGEL
FAMILY TRUST,

and

ROBERT RANDALL and SALLY RANDALL,
husband and wife

Complainants,

v.

PINE WATER COMPANY, an Arizona
Corporation

Respondent..

DOCKET NO. W-03512A-06-0407

NOTICE OF FILING REBUTTAL
TESTIMONY

ASSET TRUST MANAGEMENT, CORP.

Complainants,

v.

PINE WATER COMPANY, an Arizona
Corporation

Respondent.

DOCKET NO. W-03512A-06 -0613

JAMES HILL and SIOUX HILL, husband and
wife and as trustees of THE HILL FAMILY
TRUST,

Complainants,

v.

PINE WATER COMPANY, an Arizona
Corporation

Respondent.

DOCKET NO. W-03512A-07-0100

Arizona Corporation Commission
DOCKETED

JAN 25 2008

DOCKETED BY

ne

1 **BRENT WEEKES,**

2 **Complainants,**

3 **v.**

4 **PINE WATER COMPANY, an Arizona**
5 **Corporation**

6 **Respondent.**

DOCKET NO. W-03512A-07-0019

7 Complainants, RAYMOND R. PUGEL AND JULIE B. PUGEL, as trustees of THE RAYMOND
8 R. PUGEL and JULIE B. PUGEL FAMILY TRUST, and ROBERT RANDALL and SALLY RANDALL,
9 ASSET TRUST MANAGEMENT, and BRENT WEEKES, hereby submit the Notice of Filing Rebuttal
10 Testimony in this referenced matter. Attached hereto as Exhibit A is the Rebuttal Testimony of Loren
11 Peterson.

12 RESPECTFULLY SUBMITTED this 23rd day of January, 2008.

13
14 GLIEGE LAW OFFICES, PLLC

15
16 /s/ John G. Gliege

17 John G. Gliege

18 Attorney for Complainants,

19 Pugel et al., Asset Trust Management, and Brent Weekes
20
21
22
23
24
25
26
27
28
29

1 Original and 19 copies mailed/delivered
2 This 23rd day of January, 2008 to:

3 Arizona Corporation Commission
4 Attn: Docket Control
5 1200 W. Washington
6 Phoenix, AZ 85007

7 Copies of the foregoing mailed/delivered
8 This 23rd day of January, 2008 to:

9 Kevin O. Torrey
10 Attorney, Legal Division
11 Arizona Corporation Commission
12 1200 W. Washington Street
13 Phoenix, AZ 85007

14 Christopher Kempley, Chief Counsel
15 Legal Division
16 Arizona Corporation Commission
17 1200 W. Washington Street
18 Phoenix, AZ 85007

19 Ernest G. Johnson, Director
20 Utilities Division
21 Arizona Corporation Commission
22 1200 W. Washington Street
23 Phoenix, AZ 85007

24 Jay L. Shapiro
25 Fennemore Craig
26 3003 North Central Ave. Ste 2600
27 Phoenix, AZ 85012-2913

28 David W. Davis, ESQ.
29 Turley, Swan & Childers, P.C.
3101 N. Central, Suite 1300
Phoenix, AZ 85012-2643

Robert M. Cassaro
PO Box 1522
Pine, AZ 85544

William F. Haney
3018 E. Mallory St.
Mesa, AZ 85213

Barbara Hall
PO Box 2198
Pine, AZ 85544

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

EXHIBIT A

Rebuttal Testimony

Of

Loren Peterson

TESTIMONY OF LOREN PETERSON

Question: State your name

Answer: Loren Peterson

Q: Where do you reside?

A: Strawberry Hollow, Arizona

Q: Are you involved in the SH3 well located in Strawberry Hollow?

A: Yes, I am a manager of SH3 LLC which owns the well

Q: Have you ever entered into negotiations with Pine Water Company or Mr. Robert Hardcastle regarding purchasing water from the SH3 well?

A: Yes

Q: Are you familiar with the testimony which Mr. Hardcastle has given concerning the SH 3 well and the negotiations with you in this matter before the Arizona Corporation Commission?

A: Yes, I have been in attendance at a number of the hearings and have reviewed the testimony of Mr. Hardcastle, more particularly those statements set forth in the following places:

<u>Volume</u>	<u>Page(s)</u>	<u>Lines</u>	<u>Statements</u>
V	988	5-8	Q. In your view, Mr. Hardcastle, why did the negotiations to purchase water from SH3 end? A. Well, the negotiations ended because Mr. Peterson called the negotiations off
VI	1353	22-25	Q. And the possibility of purchasing water

<u>Volume</u>	<u>Page(s)</u>	<u>Lines</u>	<u>Statements</u>
			<p>from the Peterson well, that fell apart because those negotiations ended, correct?</p> <p>A. Mr. Peterson ended those negotiations.</p>
VI	1354	1-22	<p>Q. And you don't feel that you had any participation in the termination of those negotiations?</p> <p>A. Well, I certainly, I certainly participated in the negotiations. I was not the decision maker in terminating the negotiations.</p> <p>Q. And if the opportunity presented itself to reopen those negotiations, would you pursue that?</p> <p>A. Yes.</p> <p>Q. Have you approached Mr. Peterson and indicated that to him?</p> <p>A. Not formally, no.</p> <p>Q. Informally?</p> <p>A. Mr. Peterson and I have just had very</p>

<u>Volume</u>	<u>Page(s)</u>	<u>Lines</u>	<u>Statements</u>
			<p>brief discussions. And, frankly, we have usually had pretty reasonable business discussions. So I certainly entertain that possibility if Mr. Pugel had some interest in that.</p> <p>Q. But at the point where he indicated to you he was no longer interested in pursuing the negotiations, you just shut off that avenue and pursued it no further?</p> <p>A. I think Mr. Peterson's decision implied to me in that regard was pretty emphatic.</p>
VII	1478 1480	1- 22	<p>1 BY MR. GLIEGE:</p> <p>Q. As of today, is Pine Water still interested in the possibility of obtaining water from the SH3 Well?</p> <p>A. Mr. Gliege, I believe you asked me that question this morning. And I think I responded that if Mr. Peterson had a change of heart and he had some interest in an interconnection agreement that was good for him and good for us, would we be interested in talking with him. I think I replied yes.</p> <p>Q. And if Mr. Peterson proposed another</p>

<u>Volume</u>	<u>Page(s)</u>	<u>Lines</u>	<u>Statements</u>
			<p>agreement as he previously did, would you be interested in acquiring water from him?</p> <p>A. Well, clearly obviously it depends on what the agreement provided for.</p> <p>Q. Okay. Is it the preference of Pine Water Company to dictate the terms and conditions under which it acquires water?</p> <p>A. No.</p> <p>. . .</p> <p>A. Mr. Gliege, we proposed a water sharing agreement to Mr. Peterson.</p> <p>Q. And that was rejected, was it not?</p> <p>A. It was.</p> <p>Q. And you don't know why?</p> <p>A. Well, Mr. Peterson outlined a lot of issues and a lot of problems he had with the agreement. And he expressed a very clear interest that he wasn't interested in entering into such an agreement.</p> <p>Q. And once he did that you stopped all progress on this?</p> <p>A. I think you asked me that question as well before, and I think I indicated no. I</p>

<u>Volume</u>	<u>Page(s)</u>	<u>Lines</u>	<u>Statements</u>
			<p>think we had some ongoing subsequent discussion, despite the fact that we, we shared a, we shared a concern over each other's agreements.</p> <p>Q. So the problem appears to be one in the formulation of an appropriate agreement between Pine Water Company and SH3?</p> <p>A. Mr. Gliege, I don't know that. I don't know that that is the case. I know that Mr. Peterson called off the agreement. He terminated the negotiations and expressed a very clear desire that he did not want to proceed. Now, exactly why he did not want to do that, that's up to him.</p>
VIII	1589	1-3	<p>Q. And what was Mr. Peterson's stated reason?</p> <p>A. He indicated that I seem to be disinterested in selling the water companies.</p>
VIII	1690 1691	19- 10	<p>19 Q. Okay. Earlier you testified that you and Mr. Peterson attempted to negotiate the sale of water from the SH3 Well, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And those negotiations stopped?</p> <p>26 A. That's correct.</p> <p>27 Q. Was there a disagreement over the form of agreement to be used to acquire water from the SH3 Well?</p>

<u>Volume</u>	<u>Page(s)</u>	<u>Lines</u>	<u>Statements</u>
			<p>A. Well, we, both parties disagreed with the other parties' agreement proposal. And I thought at that time we were working towards a subsequent third agreement draft that we would hopefully be able to ultimately agree to.</p> <p>Q. But that didn't happen when the negotiations ceased?</p> <p>A. No. Mr. Peterson called those off before that</p>

Q: Do you agree with Mr. Hardcastle's Testimony?

A: No

Q: In what respect is Mr. Hardcastle's testimony not correct?

A: A substantial portion of Mr. Hardcastle's testimony is biased and does not clearly represent what happened. There are a number of issues being raised:

1. That Loren Peterson terminated the negotiations for some unknown reason.
2. That Loren Peterson terminated the negotiations because Hardcastle would not sell the water companies.
3. That the parties proposed different agreements and that they were working on coming together.

In addressing these issues I have to say that:

1. The negotiations were terminated for the following reasons:
 - a. Mr. Hardcastle was not willing to participate in negotiations, instead informing me that we had to use his form of Water Sharing Agreement. I had proposed an Agreement and he essentially modified it to be like his proposed agreements.
 - b. During the time the negotiations were underway Pine Water Company acquired materials and began to construct the connection, trespassing on the property of the SH3 well without our knowledge and consent.
2. The negotiations regarding the purchase of water from the SH3 well were not terminated because Mr. Hardcastle would not sell the water companies.
3. The parties did propose different agreements, however, Pine Water Company was not willing to negotiate changes in its standard form of agreement

1 Essentially Mr. Hardcastle and Pine Water Company were trying to bully us into an agreement by
2 forcing their version of the agreement upon us and constructing the connection. We were concerned that
3 Pine Water Company would tap into the SH3 well water lines without our knowledge or consent and
4 that such action on their part would work to our disadvantage, so we terminated the negotiations with
5 Pine Water Company to protect our private property interests and to prevent anymore unauthorized
6 activities on our land or affecting the SH3 well.

7
8 Q: Does this conclude your testimony?

9 A: Yes it does.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29